

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD RICHARD and
SANDRA RICHARD,

Plaintiffs,

vs.

OAK TREE GROUP, INC.,

Defendant.

Case No. 1:06-cv-362

Hon. Hugh W. Brenneman, Jr.

ORDER

This matter is now before the court on defendant's motion to strike plaintiffs' first amended complaint (docket no. 55). Fed. R. Civ. P. 12(f) provides that the court "may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter . . . (2) on motion made by a party . . . before responding to the pleading[.] Here, defendant stipulated to the filing of the first amended complaint and filed an answer. *See* docket nos. 22, 23 and 24. Its motion to strike is untimely under rule 12(f)(2). Accordingly, defendant's motion to strike is **DENIED**.

IT IS SO ORDERED.

Dated: February 11, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge